IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1919 of 2003

ATV Projects India Ltd. .. Petitioner

versus

The Regional Provident Fund Commissioner

and others .. Respondents

...

Mr.Subhash Jha with D. Ghosh i/b Law Global for the petitioner

Mr.H.V. Mehta for the respondents.

CORAM : D.G. KARNIK,J.

DATED : 5th August 2005.

P.C.:

1. Heard learned counsel for the petitioner and respondents.

2. By this petition, petitioner challenges the issuance of a warrant of attachment of its properties issued by the respondents for non payment of the Provident Fund dues.

3. The first grievance of the petitioner is that the amount demanded by the respondents as the dues is not properly computed. I therefore requested the learned counsel for the petitioner to state what according to it are the correct dues. Learned counsel states that the petitioner has not paid the employees contribution which has been already been deducted from the employees salaries, for the period from February 1998 to March 2000 and from December 2000 to February 2002 and the dues of the employees' contribution are to the extent of 22.72 lakhs. Learned counsel further states that the employer's contribution has not been paid from February 1998 upto date and the dues for the employer's contribution from February 1998 to July 1994 come to Rs.65.74 lakhs out of which an amount of Rs.50.10 lakhs has been paid from time to time leaving a balance of Rs.15.64 lakhs. Thus, the total dues even according to the calculations given by the petitioner

amount to Rs.22.72 lakhs towards employees' contribution and Rs.15.64 lakhs towards employer's contribution totally amounting to Rs.38.36 lakhs. If such a large sum of more than Rs.38.36 lakhs is due out of which the employees' contribution, which has already been recorded by the petitioner from salaries that not paid, is more than 22.72 lakhs then the respondents were certainly entitled to attach the petitioners properties.

4. The petitioner secondly contends that by several letters written in February, March and April 2001, the petitioner had been asking for instalments and the petitioner is willing to pay the entire dues in instalments. A perusal of the said letters shows that petitioner had asked for 36 monthly instalments. If the petitioner had a bonafide intention of making the payment and paid the 36 instalments from which it had asked for from April 2001 the entire dues would have been cleared by April 2004 itself. Till today, the dues have not been paid. It is thus clear that the grievance made by the petitioner that its request for instalments has not been considered by the respondent is only an attempt to delay or avoid the payment of the dues of the provident fund. Learned

counsel for the petitioner refers to and relies upon the decision of this Court in Kanaiyalal Prabhudas Maru & ors. Vs. Regional Provident Fund Commissioner & Ors. reported in (2002) I LLJ, 297 and submits that even in the said case, instalments were allowed and therefore, the petitioner should be granted facility of payment by instalments. The petitioner already has got more than four years time for making the payment after the offer for payment in instalments in 2001. The request for instalments therefore cannot be granted in the Writ Petition.

5. There is no merit in the Writ Petition which is hereby dismissed.

D.G. KARNIK, J